

Application Serial No. 10/678,155
Reply to Office Action dated November 14, 2005

REMARKS/ARGUMENTS

Initially, the Applicant would like to thank the Examiner for the early indication of allowable of subject matter. More specifically, the Applicant would like to thank the Examiner for indicating that claims 10 and 33 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims. However, despite the early indication of allowable subject matter, the Applicant believes that broader patent protection is available for the reasons set forth in the following remarks.

On page 2 of the Office Action, the Examiner outlines a rejection of claims 1-9, 14-16, 17 and 28 as being unpatentable over Wittern, Jr. et al. (U.S. Patent No. 6,302,293) in view of Thompson et al. (U.S. Patent No. 2,359,398) and further in view of Percy et al. (U.S. Patent No. 5,651,476). This rejection is respectfully traversed.

In general, the present invention is directed to a vending machine having a cabinet frame defining a central cavity. A plurality of column walls are arranged within the cabinet frame so as to separate the central cavity into a plurality of product stack areas. In accordance with the invention, each of the plurality of column walls is formed from a material sheet having top, bottom and side edges that define a substantially planar wall surface, with the wall surface including a plurality of integrally formed stiffening elements that extend between the side edges. In addition, the column wall is provided with an alignment member. The stiffening elements minimize bowing of the column walls under weight of product containers, while the alignment member provides for proper positioning of product containers within the product stack areas for dispensing from the vending machine. Each of these limitations is set forth in claim 1 in product format and in claim 28 in method format.

In rejecting claims 1, 14, 16 and 28, the Examiner relies upon Wittern, Jr. et al. which is directed to a vertical stack retainer for a vending machine. Wittern, Jr. et al. discloses a cabinet frame having a plurality of internal walls that define column areas for

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receiving product containers. The Examiner correctly recognizes that the column walls in Wittern, Jr. et al. do not shown any integrally formed stiffening elements nor an alignment member as presented in the claims. To address these missing claim elements, the Examiner initially relies upon Thompson et al. which is directed to a vending machine. Thompson et al. includes a plurality of vertically spaced shelves that are provided with a peripheral bead and diagonally extending ribs that serve to reinforce the shelf. It should be noted that Thompson et al. does not disclose providing the beads on wall portions of column walls, but merely across vertically spaced shelves. To teach the alignment member, the Examiner relies upon U.S. Patent No. 5,651,476 to Percy et al. which discloses a modular vending machine including a plurality of arrays of modular container stacking columns for holding products in escrow prior to a vend operation. Each array includes a deflecting plate that is mounted to an inner surface of the array and employed to neck down the column from one accommodating two stacks of containers to one containing a single stack.

As stated in the M.P.E.P. and widely known in case law, it is impermissible to use the claimed invention as an instruction manual or blueprint to piece together the teachings of prior art so that the claimed invention is rendered obvious. In the instant case, the Examiner is using impermissible hindsight reconstruction to pick and choose among isolated disclosures in the prior art to duplicate the claimed invention. More specifically, none of the references provide any motivation for modifying the column walls in Wittern, Jr. et al. to employ the peripheral bead and/or diagonally extending ribs in Thompson et al. in order to establish integrally formed stiffening elements or the deflecting plate of Percy et al. to teach the claimed alignment member. For example, Wittern, Jr. et al. clearly shows that the columns are divided by longitudinally extending separators 30A and 30B. If, for example, a column wall was provided with an integrally formed stiffening element that extended between the side edges as required by claim 1 and claim 28, it would be impossible to properly mount the column dividers. Thus, modifying Wittern, Jr. et al. to include the bosses from Thompson et al. would actually destroy the base reference. In addition, Wittern, Jr. et al., in Figure 12, shows the column areas to be sized so as to receive a single product container. There is simply no need for

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the deflecting plate of Percy et al. in the Wittern, Jr. et al. arrangement as the product container in Witter, Jr. et al. constitutes a single aligned column, and is never out of alignment with respect to the dispensing area. In other words, the Applicant questions why the Examiner would modify Wittern, Jr. et al. with the deflecting member from Percy et al. to neck down a single, aligned column. The Applicant respectfully submits that the modification would actually destroy the Wittern, Jr. et al. arrangement as the deflecting plate would create a blockage, preventing the vending of any products. Based on the above remarks, the Applicant submits that claims 1, 14, 16 and 28 are patentably defined over the prior art of record and should be allowed.

In rejecting independent claim 18, the Examiner relies upon the above combination of Wittern, Jr. et al., Thompson et al. and Percy et al. further modified by Newbury (U.S. Patent No. 4,498,584). In a manner similar to that described above, claim 18 is directed to a vending machine that includes a plurality of column walls arranged within a cabinet frame to separate a central cavity into a plurality of product stack areas. Each of the plurality of column walls is formed from a material sheet having top, bottom and side edges that define a substantially planar wall surface having an upper, storage region and a lower, dispensing region. Claim 18 adds that the planar surface is defined by a decoupling element extending fore-to-aft across the planar surface in the dispensing region. The decoupling element ensures that the dispensing region is only connected to the storage region through web members defined about the decoupling element. This particular arrangement substantially eliminates the transfer of any bow forces that might be present in the storage region to the bottom edge of the column wall.

In rejecting this claim, the Examiner particularly relies upon Newbury which is directed to a stackable container for use in a containerization system employed in a fish handling system for ocean going vessels. As stated above, it is wholly impermissible to use the claimed invention as an instruction manual or blueprint to piece together the teachings of non-related prior art in an attempt to render the claimed invention obvious. Once again, the Applicant submits that, in this case, the Examiner is using hindsight reconstruction to pick and choose among isolated disclosures in the prior art to duplicate

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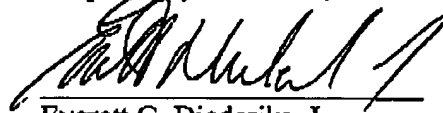
the claimed invention. More importantly, in this particular instance, the Examiner has combined a completely non-related prior art reference directed to a container system for ocean going vessels in order to modify a vending machine wall without any motivation taken from the known prior art. The Applicant is at a loss to understand how the Examiner finds motivation to combine these totally non-analogous prior art references to teach a decoupling element as recited in claim 18. Moreover, the Applicant is at a complete loss to understand how corrugations formed on side walls and end walls of a container to provide vertical stacking strength would serve as a decoupling element preventing bow forces from transferring from a storage region to a dispensing region in a vending machine. Simply stated, the Examiner has not found any prior art which addresses this invention and therefore the claims should be allowed.

With respect to many of the dependent claims, it is submitted that these claims further distinguish the invention from the prior art. For example, in claim 2, each of the plurality of column walls is divided into top, bottom and intermediate portions. Claim 3 requires that each of the top, bottom and intermediate portions includes at least one of the plurality of stiffening elements. Claim 4 requires that at least one of the plurality of stiffening elements constitutes a decoupling member provided on a bottom portion. Claim 5 requires that the bottom portion of the column wall is separated from the intermediate portion only through narrow web members. None of the prior art, when taken singly or in combination, teaches any of these features. In addition, claim 15 requires that a stiffener structure interconnect at least two of the plurality of stiffening elements, with the stiffener structure taking the form of an asterisk. Neither Wittern, Jr. et al., Percy et al. or Newbury teach these particular limitations. Finally, claim 29 requires each of the stiffening elements to be formed with a fore-to-aft extending slot in the wall surface. As stated above, none of the prior art references, when taken singly or in combination, teaches this particular feature. More importantly, there is simply no disclosure in any of the prior art references on any of this subject matter.

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In view of the above remarks, it is respectfully submitted that the invention is patentably defined over the prior art of record such that allowance of all the claims and passage of the application to issue are respectfully requested. If the Examiner should have any additional concerns regarding the allowance of this application, he is cordially invited to contact the undersigned at the number provided below if it would further expedite the prosecution of the application.

Respectfully submitted,



Everett G. Diederiks, Jr.
Attorney for Applicant
Reg. No. 33,323

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DIEDERIKS & WHITELOW, PLC
12471 Dillingham Square, #301
Woodbridge, VA 22192
Tel: (703) 583-8300
Fax: (703) 583-8301